

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 33 (Sub-No. 302X)

**Union Pacific Railroad Company – Abandonment Exemption –
in Dunn County, Wis.**

BACKGROUND

In this proceeding, Union Pacific Railroad Company (UP) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Dunn County, Wisconsin. The rail line proposed for abandonment consists of a portion of the Menomonie Industrial Lead, extending approximately 0.58 miles from milepost 0.32 near Cedar Falls Road to milepost 0.90 near Oak Avenue in Menomonie (the Line). Maps depicting the Line in relationship to the area served are appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

ENVIRONMENTAL REVIEW

UP submitted an Environmental Report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. UP served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

UP states that no local or overhead traffic has moved over the Line for over two years and that there is no overhead traffic. If the proposed abandonment is approved, UP will continue to provide rail service to the area from the remaining portion of its Menomonie Industrial Lead and its Altoona Subdivision Main Line. Accordingly, the proposed abandonment would not

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 33 (Sub-No. 302X).

adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. If abandonment authority is granted, UP states that the right-of-way may be suitable for use as a public hiking and bike trail, and that it has negotiated a tentative agreement with the City of Menomonee for such use.

The U.S. Natural Resource Conservation Service (NRCS) submitted comments stating that the proposed abandonment would not affect any NRCS easements and would not result in the conversion of important farmland into nonagricultural use. Accordingly, no mitigation regarding the conservation of agricultural land is recommended.

UP has requested comments from the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the Wisconsin Department of Natural Resources regarding the potential impacts of the proposed action on water resources, but has received no responses from these agencies to date. UP believes that, because the Line does not cross and is not immediately adjacent to any waterway or wetland, the proposed abandonment would not require permitting under the Clean Water Act (CWA).

In its review of available geospatial data, OEA has confirmed that the Line does not cross and is not immediately adjacent to any waterways. Based on best available data, there are no delineated wetlands in the vicinity of the Line.² The Line is not located within and does not cross any area designated as a regulatory floodway or flood hazard area.³ Therefore, OEA believes that the abandonment as proposed would not result in the discharge of dredge or fill material into the waterways or wetlands of the United States; erosion or sedimentation affecting waterways; or any other negative impact to water quality. Accordingly, we concur with UP that permits under CWA Section 402 (33 U.S.C. § 1342) and CWA Section 404 (33 U.S.C. § 1344) would not be required.

UP has requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment on endangered and threatened species and their habitat, but has received no response to date. In its review of available USFWS data, OEA

² U.S. Fish and Wildlife Service, National Wetlands Inventory, <http://www.fws.gov/wetlands/> (last visited March 28, 2013).

³ Federal Emergency Management Agency, Mapping Information Platform, <https://hazards.fema.gov/femaportal/wps/portal> (last visited March 28, 2013).

has determined that the proposed abandonment is not located in an area designated as critical habitat for threatened or endangered species.⁴

OEA also conducted a search of the USFWS Environmental Conservation Online System in order to identify any federally listed endangered or threatened species that may be present in the vicinity of the Line.⁵ The search indicated that only one such species is known or thought to occur in Dunn County, Wisconsin. This is the sheepnose mussel (*Plethobasus cyphus*), an endangered medium-sized mussel usually found in larger rivers and streams. Because the Line does not cross and is not immediately adjacent to any potential habitat of this species, OEA has concluded that the project would have no effect on this or any other federally listed threatened or endangered species. Accordingly, no mitigation regarding the protection of biological resources is recommended.

UP has requested comments from the National Park Service (NPS) regarding the potential impact of the proposed abandonment on wildlife sanctuaries or refuges, parks, or other protected areas, but has received no response to date. UP states, and OEA review has confirmed, that the Line does not cross and is not located in or adjacent to any local or national park; wildlife sanctuary or refuge; or other protected area. Accordingly, no mitigation regarding protected areas is recommended.

The National Geodetic Survey (NGS) submitted comments stating that there are no geodetic station markers located in the vicinity of the Line. Accordingly, no mitigation regarding geodetic station markers is recommended.

UP states that there are no known hazardous waste sites or sites where hazardous material spills have occurred on or adjacent to the right-of-way. OEA review has determined that there are no listed Superfund sites in the vicinity of the Line.⁶ Accordingly, no mitigation regarding hazardous waste sites or hazardous material spills is recommended.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts.

⁴ U.S. Fish and Wildlife Service, Critical Habitat Portal, <http://criticalhabitat.fws.gov/crithab> (last visited March 28, 2013).

⁵ U.S. Fish and Wildlife Service, Environmental Conservation Online System, <http://ecos.fws.gov/ecos/indexPublic.do> (last visited March 28, 2013).

⁶ Environmental Protection Agency, NEPAassist, <http://nepassisttool.epa.gov/nepassist/entry.aspx> (last visited March 28, 2013).

HISTORIC REVIEW

According to information provided by UP, the Line was originally constructed in 1880 by the Menomonie Railway. It is currently constructed with 90 pound jointed rail that was laid in 1923 and 1948. The sole structure on the Line is a bridge crossing Interstate 94. The bridge is a 229 foot through plate girder bridge built in 1959.

UP consulted with the Division of Historic Preservation of the Wisconsin Historical Society (State Historic Preservation Officer or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The SHPO concurred with UP's determination that the proposed abandonment would not affect any known archaeological sites or historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register). OEA has reviewed the report and the available information, and concurs with UP and the SHPO.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that no known historic properties listed in or eligible for inclusion in the National Register would be affected within the right-of-way (the Area of Potential Effect, or APE) of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.dot.gov.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the National Park Service Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.⁷ The database indicated that the following federally recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way of the proposed abandonment:

- Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation in Wisconsin;
- Bois Fore Band (Nett Lake) of the Minnesota Chippewa Tribe in Minnesota;
- Flandreau Santee Sioux Tribe of South Dakota;
- Fond du Lac Band of the Minnesota Chippewa Tribe in Minnesota;
- Grand Portage Band of the Minnesota Chippewa Tribe in Minnesota;
- Keweenaw Bay Indian Community in Michigan;
- Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin;
- Lac Vieux Desert Band of Lake Superior Chippewa Indians in Michigan;
- Leech Lake Band of the Minnesota Chippewa Tribe in Minnesota;

⁷ National Park Service, National NAGPRA Program Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited March 28, 2013).

- Low Sioux Indian Community in the State of Minnesota;
- Mille Lacs Band of the Minnesota Chippewa Tribe in Minnesota;
- Minnesota Chippewa Tribe in Minnesota;
- Prairie Island Indian Community in the State of Minnesota;
- Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin;
- Santee Sioux Nation in Nebraska;
- Sokaogon Chippewa Community in Wisconsin;
- St. Croix Chippewa Indians of Wisconsin;
- Upper Sioux Community in Minnesota; and
- White Earth Band of Minnesota Chippewa Tribe in Minnesota.

Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

CONDITIONS

We recommend that no environmental conditions be imposed on any decision granting abandonment authority in this proceeding.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption would not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

Requests for a notice of interim trail use (NITU) are due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Joshua Wayland, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 33 (Sub-No. 302X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Joshua Wayland, the environmental contact for this case, by phone at (202) 245-0330, fax at (202) 245-0454, or e-mail at waylandj@stb.dot.gov.

Date made available to the public: April 12, 2013

Comment due date: April 29, 2013

By the Board, Victoria Rutson, Director, Office of Environmental Analysis